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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: SOCIAL MEDIA ADOLESCENT
ADDICTION/PERSONAL INJURY PRODUCTS
LIABILITY LITIGATION

This Document Relates To:

ALL ACTIONS

MDL No. 3047

Case No. 4:22-md-03047-YGR (PHK)

**AGENDA AND JOINT STATEMENT
FOR FEBRUARY 12, 2025, CASE
MANAGEMENT CONFERENCE**

Judge: Hon. Yvonne Gonzalez Rogers

Magistrate Judge: Hon. Peter H. Kang

Pursuant to Case Management Order (“CMO”) No. 1 (ECF 75), the Parties submit this agenda and joint statement in advance of the February 12, 2025 Case Management Conference (“CMC”).

I. Agenda for Case Management Conference

Pursuant to CMO 18, the Parties offer the below proposed agenda for the CMC scheduled for February 12, 2025:

- Hearing on 1292(b) Motions for Certification for Interlocutory Appeal (*see infra* Section IV(F))
- Meta and State AGs’ Request for Guidance on Effectuating Proposed Dismissals by Washington, Ohio, and Maine of Their Consumer Protection Claims (to Become “COPPA-Only States”) (*see infra* Section IV(B))
- Meta’s Request for Leave to File Motion to Stay and Suspend Insurance Coverage Dispute (*see infra* Section IV(E))

II. Joint JCCP Update

At the latest JCCP CMC on January 15, 2025, Judge Kuhl finalized certain JCCP bellwether pretrial and trial dates. Those dates are set forth in Judge Kuhl’s January 15, 2025 Minute Order, attached as Exhibit A. Judge Kuhl confirmed that “priority” fact discovery of the JCCP bellwether discovery pool will conclude on April 4, 2025, with selection of cases for the JCCP bellwether trial pool to occur on April 7, 2025. Judge Kuhl set May 16 as the close of fact discovery for those bellwether cases selected for trial.

Judge Kuhl ordered simultaneous designations of (and reports from) general causation experts (non-plaintiff-specific) on April 18, 2025. Simultaneous designations of (and reports from) rebuttal/supplemental general causation experts will occur on May 15, 2025. Expert discovery for general causation experts (non-Plaintiff-specific) closes in the JCCP on July 11, 2025. Opening motion *in limine* (*Sargon*) briefs as to general causation experts (non-Plaintiff-specific) are to be filed by July 28, 2025, with oppositions due August 20, 2025, replies due September 1, 2025, and a hearing set for September 17, 2025.

Simultaneous designations of (and reports from) all remaining experts for Trial 1 bellwether plaintiffs (i.e., plaintiff-specific experts and all remaining non-plaintiff-specific experts) will occur on June 6, 2025. Simultaneous designations of (and reports from) rebuttal/supplemental experts for all remaining Trial 1 bellwether plaintiffs will occur on June 27, 2025. Expert discovery for all remaining experts for Trial 1 bellwether plaintiffs (i.e., experts other than general causation experts) closes in the JCCP on August 27, 2025. The parties are to meet and confer on a schedule for motion *in limine* briefs as to these remaining experts (i.e., case-specific and non-general causation experts).

Opening summary judgment motions for Trial 1 bellwether plaintiffs are due August 13, 2025, with oppositions due September 10, 2025, replies due September 30, 2025, and a hearing set for October 16, 2025. The first JCCP bellwether trial is set for November 25, 2025. Judge Kuhl ordered the parties to meet and confer regarding a process for the selection of bellwether trial pool cases, and to include an agreed proposed process or competing proposed processes in the status report for the next JCCP CMC, which is set for February 19, 2025, at 9 a.m.

Judge Kuhl agreed with the parties' proposed briefing schedule for plaintiffs' Motion to Temporarily Lift the School District Stay, as follows: Motion filed Jan. 6, 2025; Opposition filed Feb. 3, 2025; Reply due Feb. 11, 2025; hearing Feb. 19, 2025 at 9 a.m.

There are 17 plaintiffs remaining in the JCCP personal injury bellwether discovery pool. In total, Defendants anticipate noticing and taking 68 "priority" fact depositions of bellwether plaintiffs, family members, or treating healthcare providers prior to the April 4, 2025 deadline. To date, the parties have cooperatively scheduled 57 of those depositions to take place between December 2024 and April 2025, with the parties working cooperatively to reschedule the remaining 11 depositions. Thirty-four depositions have been completed to date. Defendants anticipate taking additional fact discovery in those JCCP bellwether cases selected for trial prior to the May 16 deadline.

III. Joint Discovery Update

A copy of the following submissions and orders, which were (or will by the next MDL CMC have been) filed or issued since the last MDL CMC, will be sent by email to Judge Gonzalez Rogers after this CMC Statement is filed:

- Order Granting in Part and Denying in Part Kentucky AG's Motion to Enlarge Time for State

Agency Substantial Completion, dated February 3, 2025 (ECF 1631)

- Discovery Management Order No. 14, dated February 5, 2025 (ECF 1646)
- Parties’ joint Discovery Management Conference (“DMC”) Statement for February 13, 2025 DMC, dated February 7, 2025

IV. Other Joint Updates

A. Pending Motions to Dismiss

The Court has resolved all but two of Defendants’ motions to dismiss—specifically, Defendants’ joint motion to dismiss the Personal Injury (“PI”) Plaintiffs’ Non-Priority Claims (Counts 5, 12, 14, 16-18), filed on December 22, 2023; and Defendant Snap, Inc.’s motion to dismiss Counts 12 and 14 as asserted in three amended Short-Form Complaints, filed January 12, 2024. ECF 516, 533. Plaintiffs filed their oppositions to both motions on February 5, 2024, *see* ECF 597, 598, and replies were filed on February 15, 2024 (by Defendant Snap in support of its motion, ECF 613) and on February 26, 2024 (by all Defendants in support of the joint motion, *see* ECF 644).

B. Meta and State AGs’ Request for Guidance on Effectuating Proposed Dismissals by WA, OH, and ME of Their Consumer Protection Claims (to Become “COPPA-Only” States)

The Washington, Ohio, and Maine AGs have proposed to Meta that they dismiss their consumer protection claims, and assert only COPPA claims. The AGs represent that the basis for this request is to avoid agency discovery obligations. Meta has agreed to the AGs’ requested dismissals (with prejudice). The Parties note that Rule 41 authorizes dismissal of “an action” without also authorizing dismissal of individual claims. Accordingly, the Parties understand that the AGs’ dismissals will need to be accomplished via a Rule 15 amendment to the Multistate AG Complaint, unless the Court prefers a different way to effectuate these dismissals.

C. State AGs’ Petition for Writ of Mandamus and CA & NY Agencies’ Motions for Leave to File Amicus Briefs

On January 29, 2025, the California AG petitioned the Ninth Circuit for a writ of mandamus to direct this Court to grant the State AGs’ pending objection (ECF 1168) to Magistrate Judge Kang’s state

1 agency discovery order (ECF 1117). ECF 1621-1; *In re The People of the State of California*, No. 25-
 2 584 (9th Cir) (Dkt. 1). Ninth Circuit rules prohibit Meta from filing an answer to the petition unless the
 3 Ninth Circuit orders it to do so. *See* 9th Cir. R. 21-4.

4 On January 30, 2025, 27 other State AGs filed a “motion to intervene/join” in the California
 5 AG’s petition. ECF 1624; Mot. to Intervene/Join, *In re The People of the State of California*, No. 25-
 6 584 (9th Cir) (Dkt. 8). Meta intends to oppose the “motion to intervene/join”; Meta’s opposition is due
 7 on February 10, 2025.

8 On February 4, 2025, the California Governor (and six California state agencies) and New York
 9 Governor filed motions for leave to file *amicus curiae* briefs in support of the California AG’s petition.
 10 Mots. for Leave to File Amicus Br., *In re The People of the State of California*, No. 25-584 (9th Cir)
 11 (Dkt. 10, 11). Meta did not consent to these amicus filings, and Meta’s responses to the motions for
 12 leave are due on February 14, 2025.

13 **D. Notices of Appeal of Failure-to-Warn MTD Orders at ECF 1214 and 1267**

14 On November 14, 2024, Meta filed a notice of appeal of the Court’s Motion to Dismiss Orders at
 15 ECF 1214 and 1267. *See* ECF 1330. Since that time, TikTok has joined Meta’s appeal (ECF 1389), and
 16 the State AGs and Personal Injury and School District (“PI/SD”) Plaintiffs have filed Notices of
 17 Conditional Cross-Appeals (ECF 1386 and 1388). The State AGs and PI/SD Plaintiffs filed motions in
 18 the Ninth Circuit to dismiss Meta’s and TikTok’s appeals, and Meta and TikTok cross-moved to dismiss
 19 the conditional cross-appeals. Briefing on the motions and cross-motions to dismiss was completed as
 20 of January 28, 2025. The appeals and conditional cross-appeals have been consolidated, and deadlines
 21 for merits briefing are stayed pending resolution of the motions and cross-motions to dismiss.

22 **E. Defendants’ 1292(b) Motions for Certification for Interlocutory Appeal**

23 On December 16, 2024, Defendants filed motions for interlocutory appeal of the Court’s School
 24 District Motion to Dismiss Orders at ECF 1267 and 1332. *See* ECF 1460; ECF 1462. The PI/SD
 25 Plaintiffs opposed the motions on January 14, 2025. Defendants filed their replies on January 28, 2025.
 26 The motions will be heard at the February 12, 2025 CMC. *See* ECF 1490.

27 On December 16, 2024, the Google/YouTube and Snap Defendants filed a supplemental motion
 28 for interlocutory appeal of the Court’s October 15, 2024 Order Largely Denying in Part Meta’s Motion

to Dismiss the Multistate Attorneys General Complaint But Limiting the Scope of Claims (“State AG Order”) (22-md-03047 Dkt. 1214; 23-cv-05448 Dkt. 123). ECF 1462. Meta conditionally joined this motion. ECF 1463. The State AGs filed an opposition on January 14, 2025. ECF 1535. The Google/YouTube and Snap Defendants filed a reply on January 28, 2025, ECF 1614, which Meta conditionally joined, ECF 1616.

F. State AGs’ 1292(b) Motion for Certification for Interlocutory Appeal

On January 14, 2025, the State AGs filed a motion for interlocutory appeal of the Court’s State AG Order. *See* ECF 1534. Meta filed a response on January 28, 2025, *see* ECF 1617, contending that the Court lacks jurisdiction over the rulings at issue in the State AGs’ motion in light of the State AGs’ pending cross-appeal in the Ninth Circuit (discussed *supra* Section IV(C)). The PI/SD Plaintiffs filed an opposition to the State AGs’ motion on January 28, 2025. ECF 1615. The State AGs filed replies (to Meta’s response and to the PI/SD Plaintiffs’ opposition) on February 4, 2025. ECF 1636, 1637.

G. Meta’s Request for Leave to File Motion to Stay and Suspend Insurance Coverage Dispute

On January 23, 2025, this Court granted Meta’s Administrative Motion to Relate Meta’s pending insurance coverage action and reassigned the case to the Court for consideration in parallel with the MDL. 4:24-cv-9500-YGR, ECF 37. Meta respectfully requests leave from the Court to file a motion to stay the coverage action and suspend litigation of the parties’ coverage dispute until the MDL is concluded (“Motion to Stay and Suspend”). Specifically, Meta hereby requests leave to file its Motion to Stay and Suspend on Friday, February 14, 2025, and to have it set for hearing concurrent with the CMC scheduled for March 21, 2025 at 9:00 a.m.

Insurers Hartford and Federal oppose Meta’s request. Additionally, certain Insurers intend to file motions to dismiss Meta’s action for failure to state a claim.

The parties to the coverage action also respectfully seek confirmation from the Court that all deadlines in the insurance coverage action are currently stayed, as the Court’s order reassigning the case vacated the existing Case Management Order. 4:24-cv-9500-YGR, ECF 38.

V. Parties' Additional Submissions

A. Update on Discovery Timeline for State AGs

Since the last CMC, some state agencies have met their substantial completion deadlines, and others have not. Accordingly, Meta intends to request from Magistrate Judge Kang in the near-term an extension of time to complete depositions of State witnesses—separate and apart from Meta's request to defer the States' trial date(s). Meta will share a copy of its request with the Court by email upon filing. The State AGs are evaluating whether to request from Magistrate Judge Kang a modest further extension of time to substantially complete their productions, and to also extend the time within which Meta must complete depositions of State AGs and relevant state agency witnesses. If helpful to the Court, the Parties are prepared to discuss these issues at both the Discovery and Case Management Conferences.

1 Respectfully submitted,

2 DATED: February 5, 2025

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ATTESTATION

I, Ashley M. Simonsen, hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1, that the concurrence to the filing of this document has been obtained from each signatory hereto.

Dated: February 5, 2025

By: /s/ Ashley M. Simonsen